

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

DONNELL LEWIS,

Plaintiff,

v.

XAVIER BLACKBURN,

Defendant.

No. 08-0795-DRH.

ORDER

HERNDON, Chief Judge:

Now before the Court is Plaintiff's August 14, 2009 motion to strike Defendant's affirmative defense (Doc. 22). On August 18, 2009, Defendant filed a response concurring with the Plaintiff's motion to strike affirmative defense (Doc. 23). Defendant agrees that the affirmative defense of qualified immunity should be stricken and asks for leave to re-raise this affirmative defense should an issue or claim arise to which qualified immunity may apply. Based on the pleadings, the Court **GRANTS** Plaintiff's motion to strike. The Court **STRIKES** Defendant's affirmative defense of qualified immunity. Further, the Court **ALLOWS** Defendant leave to file a motion seeking leave to amend/add this affirmative defense, if necessary.

IT IS SO ORDERED.

Signed this 20th day of August, 2009.

/s/ David R. Herndon

**Chief Judge
United States District Court**